

REMARKS

Claims 1-19 and 22-25 are in the application, with claim 19 being withdrawn from consideration. The claims have been amended to clarify the invention. No new matter has been added.

Support for the amendment to claim 1 incorporating a tool member of use to a surfer is found in previous dependent claim 4 and at page 10, lines 6-9 of the specification. Support for removal of the "rigid polymeric" limitation to the housing can be found at page 10, lines 22-25. Amendment of clamping of "two portions" to "at least one of the two portions" is for clarification. Regarding claim 4, support for the housing being a rigid polymeric material is found at page 10, line 24.

Regarding claim 5, support for this amendment is found by reference to previous claim 13 and page 10, lines 6-9 of the specification. Amendment of "first arm" to "second arm" is a clarification. Regarding claim 6, support for this amendment is found by reference to previous claim 14. Regarding claim 11, the amendment is a minor clarity amendment. Support for the amendment to claim 13 is found by reference to the arrangement of tool members 17 and 18 illustrated in Fig. 1. Regarding claim 14, support for this amendment is found in the arrangement of tool members 17 and 18 illustrated in Fig. 1 and by reference to page 9, lines 24-25. Regarding claim 15, support is found at page 9, lines 6-9 and 27-30. Support for new claim 24 is found by reference to page 10, lines 1-3. Support for new claim 25 is found by reference to page 10, lines 19-20.

Priority

The Examiner stated that the priority claim has not been perfected because Applicant has allegedly failed to show copendency with the PCT application. Attached to the filing of April 6, 2004 (which was resent on August 12, 2004) are a certification that neither the international application nor the designation of the U.S. was withdrawn prior to the filing date of the U.S. National stage application. Additionally, a copy of the PCT/IB/332 form was attached thereto to show copendency.

The PCT/IPEA/402 was not in the files of either the U.S. counsel or the Australian counsel, but a copy can be requested from the Australian IPEA if required.

Claim Rejections - 35 USC 103

Claims 1-3 and 22 were rejected as being obvious over Davies in view of Westercamp. By the present amendment, the independent claim has been amended to include the limitations of prior claim 4, such that this ground of rejection is moot.

Claim 4 was rejected as being obvious over Davies in view of Westercamp as applied to claim 1 and further in view of Hoover. Because claim 1 has been amended to include the limitations of prior claim 4, this ground of rejection is now pertinent to claims 1-4 and 22. Note also that the limitation to "rigid polymeric material" that was deleted from claim 1 is presently claimed in claim 4, making the Westercamp reference pertinent to this claim only.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (See M.P.E.P. Section 2143).

No Motivation to Combine

In the present case, at least two of these criteria have not been met in the Office Action. First, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify Davies or combine it with Hoover to provide at least one tool member attached to the at least one clamping member.

Davies discloses an apparatus for connecting lengths of urethane cord for leg rope repair. The retention mechanism relies on a pair of cam wheels mounted on axles that engage and release a clamping force on a portion of urethane rope based upon pulling on different ends of the urethane rope (i.e., end A to tighten, end B to release). Davies nowhere teaches or fairly suggests the addition or combination of a tool member and, as a whole, *teaches away* from the use of a clamping means that utilizes leverage gained by a handle or arm.

Hoover teaches the use of a lever 26 for operation of a cable clamp that can further employ a removable handle ("T-shaped key 80") that fits into a socket 64 on the lever unit 60 "which is used to open and close the cam" (see column 1, lines 69-70). The design allows use of a relatively short lever. Hoover fails to teach or fairly suggest either the addition or combination of a tool member to a clamping device, merely the use of a removable lever. The T-shaped key is

not a "tool member" given its broadest reasonable interpretation *consistent with the specification* as required by M.P.E.P. 2111. The tool members discussed in the specification are items that have *utility to a surfer*, i.e., utility beyond use as leverage, such as screwdrivers, blades and hex-head drivers (i.e., "alan-keys") that can be used for attaching/detaching surfboard fins, leg-rope assemblies, etc. In view of this, any interpretation of the key 80, which acts only as a lever, as a "tool member" is inconsistent with the present specification.

Furthermore, the prior "tool member" limitation of claim 4 have been further clarified by the addition of the limitation "of use to a surfer" in the presently amended claim 1. As discussed in the specification, particularly in the second paragraph of page 10, the tool member has a separate utility to a surfer beyond use as leverage on the leg-rope connection device. This teaching is completely lacking in Hoover.

It is further submitted that one of ordinary skill in the art would not have any reason to combine the disclosures of Davies and Hoover. The apparatus of Davies is clearly drawn to urethane-type cords that can provide tension, but insufficient compression to release the cams. A primary teaching is the use of the cords' tension to both engage and release the opposing cams. This clamping technique eschews the use of levers, but requires the use of at least two opposing clamps. Indeed, it provides little beyond the more than 100 year old prior art clothes line fastener of Velie (U.S. Pat. No. 593,256) except for the application of such a device in the surfing environment. The presently claimed invention is an improvement over this prior art since, for example, it allows for decreased drag due to the better hydrodynamics (Davies and Velie require a sufficient length of the cord ends to protrude to allow release of the cams) and adds the utility of at least one tool member of use to a surfer.

Hoover, as explained in col. 3, lines 31-34, is drawn to the application of a clamp in the field of cable clamps for use in boating/sailing, wherein the cable is looped back and clamped upon itself to form a loop. This has little or no application to a leg-rope repair device used by surfers since the compressible/hollow urethane cord used by surfers is not particularly suitable for clamping against itself.

Since Davies teaches against use of a handle and Hoover merely teaches the use of a removable handle, it is clear that neither reference teaches or fairly suggests providing a tool member of use to a surfer to a clamping member.

All Claim Limitations Not Shown

As discussed above, Davies fails to disclose a tool member or any arm members associated with the clamping means. Although Hoover arguably discloses use of a removable lever in conjunction with a cable repair clamp, it utterly fails to teach or fairly suggest any application to use with leg-ropes or the use of a "tool member of use to a surfer."

Indeed, it is the Applicant's position that the present invention, as claimed in independent claim 1, requires that a tool member of use to a surfer be attached to a clamping member, or alternatively an arm member. The claimed tool member has some utility or function other than merely assisting the clamping member or arm member to close by providing additional leverage as is the case in Hoover. Hoover discloses only a T-shaped key 80 that is temporarily placed in non-circular socket 64 of lever unit 60 to assist in closure of the lever unit 60. Once closed, the T-shaped key 80 is removed from socket 64. The T-shaped key 80 serves no other purpose and cannot be properly construed as a "tool member" under MPEP 2111. Indeed, the T-shaped key 80 of Hoover is neither "attached to" the lever unit 60 nor is it a "tool" in the sense this term is used in the claims of the present application.

None of the additionally applied prior art to Westercamp or Feyas provides for the elements missing from the base rejection, and thus cannot be combined with Davies or Hoover to correct the above-cited deficiencies.

In view of the above arguments, Applicant respectfully submits that independent claim 1, as well as claims 2-4 and 22-23 that depend therefrom, are novel and non-obvious over the cited prior art.

Claims 5, 7-10, and 18 were rejected as being obvious over Davies in view of Ketteman. Because the limitations of prior claim 13 have been incorporated into claim 5, this ground of rejection is moot.

However, claims 13-16 were rejected over Davies and Ketteman in view of Hoover, such that this is now the rejection most applicable to the presently amended claims. Additionally, the rejections of claims 6 and 11-12 now must depend on one of the above-mentioned combination of Davies and Ketteman in view of Hoover.

However, Applicant submits that this combination fails to make a *prima facie* case of obviousness.

No Motivation to Combine

As discussed above, Davies discloses an apparatus for connecting lengths of urethane cord for leg rope repair. The retention mechanism relies on a pair of cam wheels mounted on axles that engage and release a clamping force on a portion of urethane rope based upon pulling on different ends of the urethane rope (i.e., end A to tighten, end B to release). Davies nowhere teaches or fairly suggests the addition or combination of a tool member and, as a whole, *teaches away* from the use of a clamping means that utilizes leverage gained by a handle or arm.

Ketteman discloses a trolley-cable repair clamp that has cam-action clamps operated by arms B and C that do not pivot from the ends of the housing A. It has nothing to do with leg-rope repair. Likewise, it fails to teach or suggest any additional function for the lever arms B and C. As a whole, it inherently teaches away from clamps without lever arms, as found in Davies.

Hoover, likewise, inherently teaches away from clamps without lever arms, as found in Davies, and rather suggests the use of levers or short levers with removable lever arms. As discussed above, Hoover fails to teach or fairly suggest the provision of a "tool member of use to a surfer" on an arm member of the clamping mechanism, as reasonably interpreted consistent with the specification.

Furthermore, the prior "tool member" limitation of claim 13 have been further clarified by the addition of the limitation "of use to a surfer" in the presently amended claim 5. As discussed in the specification, particularly in the second paragraph of page 10, the tool member has a separate utility to a surfer beyond use as leverage on the leg-rope connection device. This teaching is completely lacking in Hoover.

All Claim Limitations Not Shown

Neither Davies nor Ketteman nor Hoover disclose a tool member of use to a surfer on an arm member of a clamp.

Furthermore, none of the additional cited prior art to Leslie, Feyas, or Westerkamp correct the above-mentioned deficiencies in Davies, Ketteman, and Hoover.

In view of the above arguments, Applicant respectfully submits that claims 5-18 and 24-25 are novel and non-obvious over the cited prior art.

Conclusion

For the reasons cited above, Applicants submit that claims 1-18 and 22-25 are in condition for allowance and requests reconsideration of the application. If there remain any issues that may be disposed of via a telephonic interview, the Examiner is kindly invited to contact the undersigned at the local exchange given below.

Respectfully submitted,



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